

## REMARKS

The undersigned thanks Examiner Cooney for allowing claims 41-56 and 92.

Claims 96-134 have been rejected as being anticipated by each of EP 0422460A2 (Grimmer), US 5,185,380 (Diessel), US 6,069,182 (Naber) and US 5,525,278 (Krosch). These rejections are respectfully traversed.

Claim 96, as amended (including the additions, but not the deletions), now reads:

96. A powder having a maximum particle size of 2 mm, comprising a contaminant powder of a contaminant and at least 5% by weight of a comminuted polyurethane foam powder, wherein the contaminant is selected from the group consisting of polymer sheeting, and paper, further wherein the comminuted polyurethane foam powder is a powder of flexible reversibly deformable foam having a majority of open cells.

Support for these changes is found in the specification as follows:

*"A powder having a maximum particle size of 2 mm"*

Foam pieces ... are comminuted ... to prepare a foam powder preferable having a particle size of 2 mm or less, preferably less than about 0.25 mm, ... (etc.) [p.18, starting at line 19]

It will be understood that foam powder having a particle size of 2 mm or less contains the broken parts of foam bubbles or cells without any substantial volume fraction (example ranges given) of complete cells or bubbles. [p. 18, starting at line 25]

Preferably, a majority (or all) of the particles are of such a size that, when viewed on a particle-by-particle basis, do not have elongated sections left from the microscopic foam structure jutting from a central junction. [p. 18, starting at line 28]

The “powders” in our examples are all smaller than 180 microns (No. 80 sieve). [p.39, Table 1]

*“flexible reversibly deformable foam having a majority of open cells”*

Flexible foams, foams that recover after deformation, are typically used in carpet backing, bedding, furniture, and automotive seating. Rigid foams ... (etc.) [p.1, starting at line 27]

Generally speaking, “flexible foams” are those that recover their shape after deformation. In addition to being reversibly deformable, flexible foams tend to have limited resistance to applied load and tend to have mostly open-cells. Rigid foams... (etc.) [p.3, starting at line 26]

Desirably, the foam powder is produced from at least some flexible PUR foam, preferably 5% or 10% by weight or more, but containing little if any rigid or semi-rigid foam. Of course, it is possible to accure the benefits of the process using the rigid and semirigid foam, but other processes deal suitably with rigid foams. [p.19, starting at line 14]

Both these examples discuss “Flexible-slabstock polyurethane foam production scrap” that is ground to a fine “powder” which is 100% smaller than a No.80 sieve (i.e., < 180 microns). [pp.38-39, Examples 1 and 2]

As the Examiner will recognize, the cited prior art do *not* disclose “[a] powder having a maximum particle size of 2 mm” and/or “wherein the comminuted polyurethane foam powder is a powder of flexible reversibly deformable foam having a majority of open cells.”

**Grimmer (EP 0422460A2):** It discloses a vinyl-covered foam granulated to about 1/8” bits. But, a “powder having a maximum particle size of 2 mm” is not disclosed. In fact, Grimmer’s polyurethane bits are necessarily larger than 355 microns as disclosed on page 3, line

33. Furthermore, “the comminuted polyurethane foam powder is a powder of flexible reversibly deformable foam having a majority of open cells” is not disclosed.

**Diessel:** It discloses comminution of polyurethane soft foams. Comminution produces “granules, e.g. about the size of lentils” (col.2, lines 33-35). However, a powder having a maximum particle size of 2 mm is not disclosed.

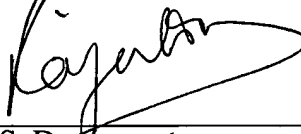
**Naber:** It discloses comminution of automobile dashboard scrap containing semi-rigid polyurethane foam to produce powder having article size of approx. 5 mm (see col. 3, line 51-52). A powder having a maximum particle size of 2 mm is not disclosed.

**Krosch:** Comminution of rigid polyurethane foam is disclosed. The size of the comminuted product is in the range of less than 2 to 4 mm, but “dust” is to be avoided. See, for example col.2, lines 45-54; col. 9, lines 29-38, claim 3. Therefore, “powder having a maximum particle size of 2 mm” is not disclosed. Also, the foam of Krosch is a “rigid” foam (see for example, col. 7, line 54; claims 1, 12, 15, and 29), which is typically used as board stock or as insulating material and has closed cells. It is distinct from “flexible reversibly deformable foam having a majority of open cells.”

The Examiner has made US 5,297,741 (Zurn) and US 5,891,927 (Jeschke) of record, but has not relied upon them to reject the claims. Applicants have reviewed Zurn and Jeschke and found that they also suffer in substantially the same way as the references relied upon by the Examiner. In light of the above, a Notice of Allowance is respectfully solicited.

In the event that the transmittal letter is separated from this document and the Patent and Trademark Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. **442602000110**.

Respectfully submitted,



Dated: September 20, 2004

Raj S. Dave  
Registration No. 42,465

Morrison & Foerster LLP  
2000 Pennsylvania Avenue, N.W.  
Washington, D.C. 20006-1888  
Telephone: (202) 887-1500  
Facsimile: (202) 887-0763